

House Study Bill 640 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON HEIN)

A BILL FOR

1 An Act providing for the management of weeds, including noxious
2 weeds, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 317.1, Code 2018, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3. "*Department*" means the department of
4 agriculture and land stewardship.

5 Sec. 2. Section 317.1A, Code 2018, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 3. A plant is also declared to be a noxious
8 weed as provided in rules adopted by the department pursuant
9 to chapter 17A. The department's determination shall be based
10 on a finding that the plant is competitive, persistent, or
11 pernicious, and may directly or indirectly injure or cause
12 damage to crops, other useful plants, livestock, or poultry;
13 irrigation, land, public roads, fish or wildlife resources; or
14 the public health.

15 Sec. 3. NEW SECTION. 317.1B **State weed commissioner.**

16 The secretary of agriculture may appoint a state weed
17 commissioner to aid in the administration of this chapter
18 and carry out other duties as assigned by the secretary of
19 agriculture relating to the control or eradication of weeds.

20 Sec. 4. NEW SECTION. 317.1C **Department — powers and**
21 **duties.**

22 1. The department shall assist commissioners, boards of
23 supervisors, and cities in the interpretation of this chapter
24 and the administration and enforcement of this chapter.

25 2. *a.* The department may adopt administrative rules,
26 pursuant to chapter 17A, providing a list of plants that it
27 determines is noxious in the manner provided in section 317.1A.

28 *b.* The department may establish priorities from the list
29 of noxious weeds described in section 317.1A for control or
30 eradication. The priorities may be published annually and
31 made available to the state department of transportation,
32 counties, commissioners, and to the public on the internet
33 site controlled by the department of agriculture and land
34 stewardship. The state department of transportation, boards
35 of supervisors, and weed commissioners shall consider the

1 priorities when establishing programs of weed control or
2 eradication pursuant to section 317.13.

3 3. The department may adopt rules, pursuant to chapter
4 17A, providing a list of recommended methods for control or
5 eradication of noxious weeds.

6 Sec. 5. Section 317.11, subsection 1, Code 2018, is amended
7 to read as follows:

8 1. The county boards of supervisors and the state department
9 of transportation shall control or eradicate noxious weeds
10 growing on the roads under their jurisdiction. ~~Spraying~~
11 ~~for control of noxious weeds shall be limited to those~~
12 ~~circumstances when it is not practical to mow or otherwise~~
13 ~~control the noxious weeds.~~

14 Sec. 6. Section 317.13, Code 2018, is amended to read as
15 follows:

16 **317.13 Program of control or eradication.**

17 1. The board of supervisors of each county may each
18 year, upon recommendation of the county weed commissioner by
19 resolution prescribe and order a program of weed control or
20 eradication for purposes of complying with all sections of
21 this chapter. The county board of supervisors of each county
22 may also ~~by adopting~~ adopt an integrated roadside vegetation
23 management plan ~~prescribe and order as part of~~ a program of
24 weed control or eradication for purposes of complying with all
25 sections of ~~this chapter~~. ~~The program for weed control ordered~~
26 ~~or adopted by the county board of supervisors shall provide~~
27 ~~that spraying for control of weeds shall be limited to those~~
28 ~~circumstances when it is not practical to mow or otherwise~~
29 ~~control the weeds.~~

30 2. The program of weed control or eradication shall include
31 ~~a program of~~ issuing permits for the burning, mowing, or
32 spraying of roadsides by private individuals. The county
33 board of supervisors shall allow only that burning, mowing, or
34 spraying of roadsides by private individuals that is consistent
35 with the adopted integrated roadside vegetation management

1 plan. This ~~paragraph~~ subsection applies only to those roadside
2 areas of a county which are included in an integrated roadside
3 vegetation management plan.

4 Sec. 7. Section 317.18, Code 2018, is amended to read as
5 follows:

6 **317.18 Order for weed control on roads.**

7 ~~The~~ A county board of supervisors and the state department of
8 transportation shall control or eradicate noxious weeds growing
9 on the roads under their jurisdiction. A board of supervisors
10 may order all noxious weeds, within the right-of-way of
11 all roads under county jurisdiction to be cut, burned, or
12 otherwise controlled to prevent seed production or eradicated,
13 either upon its own motion or upon receipt of written notice
14 requesting the action from any residents of the township in
15 which the roads are located, or any person regularly using
16 the roads. The order shall be consistent with the county
17 integrated roadside vegetation management plan, if the county
18 has adopted such a plan, and the. The order shall define the
19 roads along which noxious weeds are required to be cut, burned,
20 or otherwise controlled or eradicated and shall require the
21 weeds to be cut, burned, or otherwise controlled or eradicated
22 within fifteen days after the publication of the order in
23 the official newspapers of the county or as prescribed in
24 the county's integrated roadside vegetation management plan.
25 ~~The order shall provide that spraying for control of noxious~~
26 ~~weeds shall be limited to those circumstances when it is not~~
27 ~~practical to mow or otherwise control the weeds.~~

28 Sec. 8. Section 317.19, subsection 1, Code 2018, is amended
29 to read as follows:

30 1. The board of supervisors may appropriate moneys to
31 be used for the purposes of ~~cutting, burning, or otherwise~~
32 controlling or eradicating weeds or brush within the
33 right-of-way of roads under county jurisdiction in a manner
34 consistent with the county's ~~roadside vegetation management~~
35 ~~plan, if the county has adopted such a plan, or in time to~~

1 ~~prevent reseeding program of weed control or eradication~~
2 ~~pursuant to section 317.13, except as provided in section~~
3 ~~314.17. The moneys appropriated shall not be spent on spraying~~
4 ~~for control of weeds except in those circumstances when it is~~
5 ~~not practical to mow or otherwise control the weeds.~~

6 Sec. 9. REPEALS. Sections 317.2, 317.5, 317.8, and 317.17,
7 Code 2018, are repealed.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 GENERAL. This bill provides for the control or eradication
12 of weeds, including noxious weeds, by state and local
13 governments under Code chapter 317 sometimes referred to as
14 the "weed law" (Code section 317.8(3) and (4)). The control
15 of weeds is the responsibility of a number of state and
16 governmental entities, including the department of agriculture
17 and land stewardship (DALs) headed by the secretary of
18 agriculture (secretary), the state department of transportation
19 (DOT), county boards of supervisors (boards), and county weed
20 commissioners (commissioners) appointed by their respective
21 boards.

22 LIST OF NOXIOUS WEEDS. The bill authorizes the department
23 of agriculture and land stewardship (DALs) to declare a plant
24 to be a noxious weed and added to the statutory list of noxious
25 weeds (Code section 317.1A).

26 STATE WEED COMMISSIONER. The bill authorizes the secretary
27 of agriculture to appoint a state weed commissioner to aid in
28 the administration of the Code chapter and carry out related
29 duties as assigned by the secretary of agriculture.

30 DALs' POWERS AND DUTIES. The bill provides that DALs may
31 assist county weed commissioners, boards of supervisors,
32 and cities (local authorities) in the interpretation of
33 the Code chapter, and in the administration and enforcement
34 of its provisions. DALs may establish a list of priority
35 noxious weeds and methods of control or eradication to be

1 given consideration by the DOT and local authorities when
2 establishing programs for weed control or eradication.

3 PROGRAM OR WEED CONTROL OR ERADICATION. The bill authorizes
4 a board to adopt a program of weed control or eradication. The
5 bill authorizes a board or DOT to control or eradicate noxious
6 weeds growing in roads.

7 REPEALED PROVISIONS. The bill eliminates a number of Code
8 chapter provisions, including providing for the secretary's
9 appointment of a state botanist (Code section 317.2), the
10 control of weeds in abandoned cemeteries (Code section
11 317.5), the duty of the secretary to serve as the state weed
12 commissioner and the authority to appoint a designee (Code
13 section 317.8), the power of the secretary or secretary's
14 designee to temporarily declare a new weed as noxious (Code
15 section 317.8), the authority of the secretary or designee to
16 impose a maximum penalty of a \$10 fine for each day, up to 10
17 days, that the state agency in control of land fails to comply
18 with an order for destruction of weeds (Code section 317.8),
19 and the requirement that a notice of an order arising out of a
20 program of weed control be provided to property owners (Code
21 section 317.14).

22 APPLICABLE PENALTY. An officer who neglects or fails to
23 perform a duty under the Code chapter is guilty of a simple
24 misdemeanor. A simple misdemeanor is punishable by confinement
25 for no more than 30 days or a fine of at least \$65 but not more
26 than \$625 or by both.